

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

RADIANCE, INC.,

Plaintiff,

v.

TWIN CITY FIRE INSURANCE COMPANY

Defendant.

Civil Action No. 10-10120-RGS

**OPPOSITION OF PLAINTIFF RADIANCE, INC. TO  
DEFENDANT’S MOTION FOR LEAVE TO FILE A REPLY**

Plaintiff Radianse, Inc. (“Radianse”) hereby opposes Defendant’s Motion for Leave to Reply Memorandum, ECF No. 35. If the Court grants said motion, Radianse respectfully requests permission to file a surreply.

In support of this motion for leave, Radianse states the following:

1. On August 12, 2010, the parties filed cross-motions for summary judgment. On September 10, 2010, the parties filed oppositions to those motions for summary judgment. On September 24, 2010, Radianse, with leave of this Court, filed a timely reply brief in response to Defendant’s opposition to Radianse’s summary judgment. The Defendant elected not to file a reply brief at that time.

2. The Defendant now seeks leave to file a “reply” brief. However, having already seen the reply brief filed by Radianse, Defendant’s response is in essence a reply to the reply of Radianse. The Defendant has been afforded an opportunity to preview the arguments in the

reply brief of Radianse, but the same opportunity was not afforded to Radianse. Permitting Defendants to file their reply would therefore offer an additional, unfair bite at the apple.

3. Furthermore, this brief is untimely under Rule 56, which permits a reply brief to be filed only within 14 days of the opposition brief. See Fed. R. Civ. P. 56(c)(1)(c).

WHEREFORE, Defendants respectfully request the Court to deny Defendant's motion for leave to reply. If, however, the Court grants said motion, Radianse seeks permission to file a surreply.

Respectfully submitted,  
RADIANCE, INC.  
By its attorneys,

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Dated: October 4, 2010

**Certificate of Service**

I, Jack R. Pirozzolo, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Jack R. Pirozzolo  
Jack R. Pirozzolo